IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 18265 of 2005(Y)

AGAINST THE ORDER IN IA.214/03 IN
OS.230/2003 of PRL.SUB COURT,IRINJALAKUDA

.....

PETITIONER:

MALATHY, AGED 45 YEARS,
W/O.VIJAYAN, KANIMANGALATHUKARAN HOUSE,
VEDAKKUMMURI DESOM, THRISSUR DT.

BY ADV. SRI.RENJITH THAMPAN
SMT.P.A.ANITHA

RESPONDENT:

KAINS KURIES AND LOANS PVT. LTD.,
PALIAKKARA, THRISSUR DT.

BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)
SRI.V.J.ANAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 18265/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE OBJECTION IN O.S.230/03 IN E.P.213/04 DATED 4.11.04 FILED BY THE PETITIONER.

EXT.P2: TRUE COPY OF THE SALE NOTIFICATION IN O.S.230/03 IN E.P.213/04 DATED 4.6.05 OF THE SUB COURT, IRINJALAKUDA.

RESPONDENT'S EXTS.:

EXT.R1-A: TRUE COPY OF JUDGMENT PASSED BY THE HONOURABLE SUB COURT, IRINJALAKUDA IN O.S.230/03.

EXT.R1-B: TRUE COPY OF DECREE IN O.S.230/03 OF THE HONOURABLE SUB COURT, IRINJALAKUDA.

EXT.R1-C: TRUE COPY OF THE EXECUTION PETITION, E.P.213/04 IN O.S.230/03 FILED BY THE RESPONDENT BEFORE THE SUB COURT, IRINJALAKUDA.

PIUS C. KURIAKOSE,J.

- -

W.P.(C) No.18265 of 2005

- -

Dated: 18th June, 2007

JUDGMENT

Ext.P2 sale proclamation is under challenge by the judgment-debtor in this Writ Petition under Article 227 of the Constitution.

2. Heard both sides.

3. Smt.P.A.Anitha, counsel for the petitioner submits that the value of the property is much more than the value shown in the sale proclamation and a portion of the property will suffice for discharging the decree debt which is only Rs.1,80,854/-. I notice that while admitting the Writ Petition this court granted interim stay of execution on condition that the petitioner remits a sum of Rs.10,000/- towards the decree debt. It is agreed to by both sides that the above condition has been promptly complied with by the petitioner. Considering the contention of the counsel for the petitioner that a portion of the property will suffice for discharging the decree debt, I dispose of the Writ Petition issuing the following directions:

The order of stay presently granted will continue for another six months from today. It is open to the petitioner to identify a purchaser who will purchase a portion of the property (or the entire property itself) for an amount which is necessary for discharging the decree

debt. Once such a purchaser is identified, the petitioner will take him to the respondent and seek the respondent's concurrence. If concurrence is not granted by the respondent, it is open to the petitioner to file an application before the court below producing the copy of the sale agreement. If such an application is received, the court below will pass appropriate orders on the application after hearing both sides. If the entire decree debt is not paid within the six months period as directed above, it will be open to the court below to proceed further with the execution on the basis of the sale proclamation.

srd **PIUS C.KURIAKOSE, JUDGE**